

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054

No. F.DE.15 (1111) /PSB/2022/ 427-432

Dated: 16/01/23

Order

WHEREAS, S.L.S DAV Public School (School ID - 1003206), Mausam Vihar, Delhi - 110051 (hereinafter referred to as "the School"), run by the DAV College Managing Committee (hereinafter referred to as "Society"), is a private unaided school recognized by the Directorate of Education, Govt. of NCT of Delhi (hereinafter referred to as "DoE"), under the provisions of Delhi School Education Act & Rules, 1973 (hereinafter referred to as "DSEAR, 1973"). The school is statutorily bound to comply with the provisions of the DSEAR, 1973 and RTE Act, 2009, as well as the directions/guidelines issued by the DoE from time to time.

WHEREAS every school is required to file a full statement of fees every year before the ensuing academic session under section 17(3) of the Delhi School Education Act, 1973 (hereinafter read as '*the Act*') with the Director. Such statement will indicate estimated income of the school derived from fees, estimated current operational expenses towards salaries and allowances payable to employees etc in terms of Rule 177(1) of the Delhi School Education Rules, 1973 (hereinafter read as '*the Rules*').

AND WHEREAS, as per section 18(5) of the Act read with section 17(3), 24 (1) of the Act and Rule 180 (3) of the DSEA & R, 1973, responsibility has been conferred upon the Director (Education) to examine the audited financial, account and other records maintained by the school at least once in each financial year. The Section 18(5) and Section 24(1) of the Act and Rule 180 (3) have been reproduced as under:

Section 18(5): '*the managing committee of every recognised private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such return shall be audited by such authority as may be prescribed*'

Section 24(1): '*every recognised school shall be inspected at least once in each financial year in such manner as may be prescribed*'

Rule 180 (3): '*the account and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by officers authorised by the Comptroller and Auditor-General of India.*'

Thus, the Director (Education) has the authority to examine the full statement of fees filled under section 17(3) of the DSEA, 1973 and returns and documents submitted under section 18(5) of DSEA, 1973 read with rule 180 (1) of DSER, 1973

AND WHEREAS, besides the above, the Director (Education) is also required to examine and evaluate the fee hike proposal submitted by the private unaided recognized schools which have been allotted land by the DDA/ other land-owning agencies with the condition in their allotment to seek prior approval from Director (Education) before any increase in fee.

AND WHEREAS, besides the above, the Hon'ble Supreme Court in the judgment dated 27.04.2004 passed in Civil Appeal No. 2699 of 2001 titled Modern School Vs. Union of India and others has conclusively decided that under section 17(3), 18(4) read along with rule 172, 173, 175 and 177 of the Rules, Directorate of Education has the authority to regulate the fee and other charges to prevent the profiteering and commercialization of education.

AND WHEREAS, it was also directed by the Hon'ble Supreme Court to the Director of Education in the aforesaid matter titled Modern School Vs. Union of India and others in Para 27 and 28 in case of Private unaided Schools situated on the land allotted by DDA at concessional rates that:

"27 (c) It shall be the duty of the Director of Education to ascertain whether terms of allotment of land by the Government to the schools have been complied with..."

28. We are directing the Director of Education to look into the letters of allotment issued by the Government and ascertain whether they (terms and conditions of land allotment) have been complied with by the schools.....

.....If in a given case, Director finds non-compliance of above terms, the Director shall take appropriate steps in this regard."

AND WHEREAS, the Hon'ble High Court of Delhi vide its judgement dated 19.01.2016 in writ petition No. 4109/2013 in the matter of Justice for All versus Govt. of NCT of Delhi and others has reiterated the aforesaid directions of the Hon'ble Supreme Court and has directed the Director of Education to ensure the compliance of term, if any, in the letter of allotment regarding the increase of the fee by all the recognized unaided schools which are allotted land by DDA/ land owing agencies.

AND WHEREAS, accordingly, the DoE vide Order No. F.DE-15(40)/PSB/2019/4440-4412 dated 08.06.2022, directed all the private unaided recognized schools, running on the land allotted by DDA/other land-owning agencies at concessional rates or otherwise, with the condition to seek prior approval of DoE for increase in fee, to submit their proposals, if any, for prior sanction, for increase in fee for the academic session 2022-23

AND WHEREAS, in pursuance to Order dated 08.06.2022 of the DoE, the School submitted its proposal for enhancement of fee for the academic session 2022-23. Accordingly, this Order dispenses the proposal for enhancement of fee submitted by school for the academic session 2022-23.

AND WHEREAS, in order to ensure that the proposals submitted by the schools for fee increase are justified or not, this Directorate has deployed teams of Chartered Accountants at HQ level who has evaluated the fee increase proposals of the school very carefully in accordance with the provisions of the DSEA, 1973, the DSER, 1973 and other orders/ circulars issued from time to time by DoE.

AND WHEREAS, in the process of examination of the fee hike proposal filed by the aforesaid school, necessary records and explanations were also called from the school through email dated 23.11.2022. The school was also provided an opportunity to be heard on 09.12.2022 to present its justifications/clarifications on the fee increase proposal. Based on the discussion with the school during a personal hearing, the school was further asked to submit the necessary documents and clarification on

various issues noted. In the aforesaid personal hearing, compliance of Order No. 15/ (668)/PSB/2022/4170-4174 dated 03.06.2022 issued for FY 2019-20 were also discussed with the school and the school's submissions were taken on record

AND WHEREAS, on receipt of clarification as well as documents uploaded on the web portal for the fee hike post personal hearing, the fee hike proposal was evaluated by the team of Chartered Accountants and the key suggestions noted for improvement by the school are hereunder:

A. Financial Suggestion for Improvements

1. Clause No. 2 of Public Notice dated 04.05.1997 states "*It is the responsibility of the society who has established the school to raise such funds from their own sources or donations from the other associations because the immovable property of the school becomes the sole property of the society*". Additionally, Hon'ble High Court of Delhi in its judgement dated 30.10.1998 titled Delhi Abibhavak Mahasangh concluded states "*the tuition fee cannot be fixed to recover capital expenditure to be incurred on the properties of the society.*" Also, Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

As per Clause 14 of Order No. F.DE. /15(56)/Act/2009/778 dated 11.02.2009 and Clause 7 of Order No. DE 15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 stated "*Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with income generated from the investment made out of this fund, will be kept in a separately maintained Development Fund Account.*"

Also, Rule 177 of DSER, 1973 states "*Income derived by an unaided recognized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances and other benefits admissible to the employees of the school. Provided that, savings, if any, from the fees collected by such school may be utilized by its management committee for meeting capital or contingent expenditure of the school, or for one or more of the following educational purposes, namely award of scholarships to students, establishment of any other recognized school, or assisting any other school or educational institution, not being a college, under the management of the same society or trust by which the first mentioned school is run. The aforesaid savings shall be arrived at after providing for the following, namely:*

- a) *Pension, gratuity and other specified retirement and other benefits admissible to the employees of the school.*
- b) *The needed expansion of the school or any expenditure of a developmental nature.*
- c) *The expansion of the school building or for the expansion or construction of any building or establishment of hostel or expansion of hostel accommodation.*
- d) *Co-curricular activities of the students.*
- e) *Reasonable reserve fund, not being less than ten percent, of such savings.*

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Therefore, based on the above-mentioned provisions, the cost relating to land and construction of the school building should be borne by the society running the school and school funds, i.e., fees collected from the students should not be used for the purchase of land and construction of the school building. In this regard, it is also important to mention that society was allotted an institutional land at very low cost compared to the price of commercial and as well as residential land of that nearby locality. The reason for allotment of land as such low cost was the society came up with the offer to do noble work in the field of education and run the school in Delhi on charity and on a "no profit and no loss" basis. In its offer the society also undertook to execute this work from its resources or by arranging funds through donations, subscriptions, or any other legal possible manner. Based on the noble grounds, the DoE had recommended to the land owning agencies for allotment of land to society which would otherwise not be possible for the society to have such a prime land at this cost in such posh location.

Accordingly, if the DoE finds any deviation or non-compliance in any condition of land allotment letter, the society as well as the school are bound to comply and honour that immediately as per the direction of the DoE. Society cannot always claim the protection of Article 19(1)(g), 21 & 30 of the Constitution of India for non-interference by the DoE. Because the main source (i.e., land) which was required to establish and run the school was supported by DoE by recommending to land owning agency to allotment the land to the society. After considering the recommendation of the DoE, a clause was included in the land allotment letter of the school that the school shall not increase the fee without the prior sanction of the Director (Education) and shall follow the provisions of the Delhi School Education Act/Rules, 1973 and other instructions issued by the department from time to time.

The DoE in its Order No.DE 15/ (668)/PSB/2022/4170-4174 dated 03.06.2022 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that the school had incurred capital expenditure on construction of building amounting to INR 23,16,000 in FY 2014-15 to 2016-17 and INR 19,17,385 in FY 2018-19. The aforesaid expenditure was incurred without complying with the provision of the Rule 177 of DSER, 1973 and clause 14 of the order dated 11.02.2009. Therefore, the school was directed to recover INR 42,33,385 (*INR 19,17,385 plus INR 23,16,000*) from society which is still pending for recovery.

While evaluating the fee increase proposal of FY 2022-23, the school explained that "*INR 23,16,270 was incurred for installation of lift for differently abled students and staff and INR 19,17,385 was incurred to renovate ATL labs which have been promoted by NITI aayog. Since no permanent construction was done, the cost of which can be met out of the income of the school and cannot be passed on to the society.*"

The contention of the school is incorrect because the Rule 177 of DSER, 1973 clearly states that "*Income derived by an unaided utilized school by way of fees shall be utilized in the first instance, for meeting the pay, allowances, and other benefits admissible to the employees of the school.*" Further, the school neither implemented the recommendation of 7th CPC fully nor invested an amount equivalent to the liability of gratuity in plan assets. Hence, the contention of the school is not tenable and justified.

Therefore, the total amount of INR 42,33,385 (*INR 19,17,385 plus INR 23,16,000*) utilised by the school for construction of school building which was not in accordance with above mentioned provisions has been considered as funds available with the school with the direction to the school

to recover this amount from society within 30 days from the date of issue of this order. Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school

2. Clause (vii) (c) of Order No. F.DE/15/Act/2K/243/KKK/ 883-1982 dated 10.02.2005 issued by this Directorate states "*Capital expenditure cannot constitute a component of the financial fee structure.*"

As per Section 18(4) of DSEA, 1973 states "*Income derived by unaided school by way of fees shall be utilized only for such educational purpose as may be prescribed*".

And Rule 176 of the DSER, 1973 states "*Income derived from collections for specific purposes shall be spent only for such purpose.*"

The Directorate in its Order no. 15/ (668)/PSB/2022/4170-4174 dated 03.06.2022 issued for the academic session 2019-20, noted that the school had incurred capital expenditure on purchase of cars amounting INR 8,48,442 in FY 2017-18 and INR 10,03,537 in FY 2018-19. The aforesaid expenditure was incurred without complying with the above-mentioned provisions. Accordingly, the school was directed to recover INR 18,51,979 i.e., (INR 8,48,442 plus INR 10,03,537) from society which is still pending for recovery.

During the personal hearing, the school explained that "*car was purchased for the use by students and staff for commuting to seminars, sports program and other events. The vehicle is also used to ferry students from residence and back as and when hired bus is not available. To substantiate the claim, the school was requested to submit the "vehicle logs", however the same has not been submitted for review.*"

The contention of the school is incorrect because the school fails to understand that the school may utilised their savings as derived under Rule 177 of DSER'1973, to purchase such vehicles for the purpose of commuting its staff and students. However, as already stated above, the school neither implemented the recommendation of 7th CPC fully nor invested an amount equivalent to the liability of gratuity in plan assets and didn't have any savings in its books of accounts as per Audited Financial Statements for FY 2017-18 and FY 2018-19. Hence, the purchase of vehicle made by the school was not in accordance with above mentioned provisions.

Therefore, the total amount of INR 18,51,979 (INR 10,03,537 plus INR 8,48,442) utilised by the school for purchase of cars has been considered as funds available with the school with the direction to the school to recover this amount from society within 30 days from the date of issue of this order. Non-compliance with this directive would be taken seriously, and the department would take appropriate action against the school under Section 24(4) of the DSEA, 1973 without giving any further opportunity to the school.

3. The submissions of the school regarding payment of administrative charges @ 4% of basic pay (as per 6th CPC) of staff were taken on record and included in Directorate's order no. F.DE-15/ACT-I/WPC-4109/PART/13/ 958 dated 13.10.2017. Further, while evaluating the fees hike proposal for academic session 2017-18, the school was directed for not incurring administrative charges beyond 2% of the basic salary.

However, while evaluating the fee hike proposal for academic session 2019-20, it was noted that the school had paid administrative charges to DAV CMC @ 8% on basic pay for FY 2017-18 & 7% of basic pay for 2018-19 respectively. Accordingly, the school was directed to recover the excess administrative charges paid to DAV CMC amounting INR 86,56,348 and which is still pending for recovery.

On review of the audited financial statements, it has been noted that the school has recognized "Other Establishment cost @ 5% of basic pay" payable to DAV CMC which is in excess of @ 2% administrative charges allowed to school as per the order dated 13.10.2017. The school further explained that from FY 2019-20, it has only provided the above expenditure in the books of accounts and has not made any payment in this regard. Therefore, the excess liability booked by the school towards administrative charges payable to DAV CMC i.e., (more than 2% of basic pay) need to be reversed.

Further, the documents submitted by the school post personal hearing were taken on records. The school submitted that the actual payment made to DAV CMC during FY 2017-18 and FY 2018-19 was INR 54,82,409 instead of INR 86,56,348 as mentioned in previous fee hike order and submit the relevant documents in support of its submission. Hence, the actual excess payment made by the school of INR 54,82,409 has been considered as fund available with the school while deriving the fund position with the direction to the school to recover this amount from society within 30 days from the date of issue of this order. Non-compliance with the above direction would be reviewed seriously, and appropriate action against the school under Section 24(4) of the DSEA, 1973 will be taken without giving any further opportunity.

Further, the budgeted expenditure towards 'Other establishment cost @5% of basic pay' proposed by the school for FY 2022-23 amounting to INR 48,38,726 has not been considered as eligible expenditure while deriving the fund position.

4. The Hon'ble High Court of Delhi dated 19.01.2016 in WPC no 4109/2013 in the matter of *Justice for All vs. GNCT of Delhi and others* indicated that every recognized private unaided school to whom land was allotted by DDA shall not increase the rate of fees without the prior sanction of Directorate of Education. Accordingly, the Directorate vide order No. F.DE.15(40)/PSB/2019/2698-2707 dated 27.03.2019, directed that all the Private Unaided Recognized Schools running on the land allotted by DDA/other Govt. agencies on concessional rates or otherwise, with the condition to seek prior approval of Director of Education for increase in fee, to submit their proposals, if any, for approval from the Director of Education for the academic session 2018-19 and 2019-20. Moreover, as per the directions of the Supreme Court in *Modern School vs. Union of India & ORs.* (supra), a Circular dated 16.04.2010 has been issued which is as under:
 - a) It is reiterated that annual fee-hike is not mandatory.
 - b) School shall not introduce any new head of account or collect any fee thereof other than those permitted. Fee/funds collected from the parents/students shall be utilized strictly in accordance with rules 176 and 177 of the Delhi School Education Rules, 1973.
 - c) If any school has collected fee in excess of that determined as per the procedure prescribed here-above, the school shall refund/adjust the same against subsequent instalments of fee payable by students.

The Directorate, in its Order No. F.DE. 15/ (668)/PSB/2022/4170-4174 dated 03.06.2022 issued to the school post evaluation of fee hike proposal for academic session 2019-20, noted that the school had increased its fee structure by for academic session of 2017-18 and recorded INR 1,52,52,033 as fees refundable in 2018-19 audited financial statements. All the fees increase taken by the school in the aforesaid academic sessions were without seeking approval from the DoE. Even the parents/students are not aware of the fact that the school charges excessive fee from them without taking approval from the DoE. Accordingly, the school was directed to either refund the increased fee to the students or adjust the same against future dues from the students. However, the school has not complied with the above direction.

Further, from review of audited financial statements from FY 2019-20 to FY 2021-22, noted that school has created a current liability of INR 1,52,52,033 in the name of 'fees refundable to students' related to academic sessions 2017-18 & 2018-19. Further, during the personal hearing, the school explained that *"the school has also utilized the funds for making payments of salaries and other operation expenditure."* Accordingly, the same is considered as income of the school for those financial years.

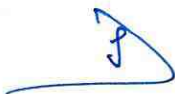
Therefore, the excess fee collected and utilized by the school of INR 1,52,52,033 has been considered as fund available with the school while deriving the fund position. Further, it is hereby directed to the school to pass the necessary rectification entries in the books of accounts and disclose the fact about excess fee collection to the students/parents at the time of issuing fee receipts. The compliance of the same will be reviewed at the time of subsequent fee hike proposal submitted by the school.

5. Clause 14 of this Directorate's Order No.F.DE/15 (56)/Act/2009/778 dated 11.02.2009 states *"Development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, up gradation and replacement of furniture, fixtures and equipment. Development Fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made from this fund, will be kept in a separately maintained Development fund Account."*

From review of presentation of the audited financial statements of FY 2021-22, it has been noted the school has reported a development fund balance of INR 5,97,06,999 while the cash/bank balance against the development fund was nil.

During the personal hearing, the school explained that due to paucity of funds it has utilized some of the development funds for payment of salary and salary related cost but was not passed the correct accounting entries in the books of accounts due to which fund balance fund balance is not matching with cash, bank and investment.

Accordingly, the closing balance of development fund has not been considered while deriving the fund position of the school with the direction to the school to rectify it books and accounts by passing the necessary accounting entries in its books and accounts. The school is further directed to ensure the collection and utilization of development fee/ funds in accordance with above cited Clause 14 of the order dated 11.02.2009



6. Para 7.14 of AS-15 “Employee Benefit” issued by the Institute of Chartered Accountants of India (ICAI) states ‘Plan Assets as:
- a. assets held by a long-term employee benefit fund; and
 - b. qualifying insurance policies.”

Further, the para 57 of the AS-15 states “an enterprise should determine the present value of defined benefit obligations and the fair value any plan assets with sufficient regularity that the amounts recognized in the financial statements do not differ materially from the amounts that would be determined at the balance sheet date.”

Review of the audited financial statements of FY 2021-22 revealed that the school has recorded liability for retirement benefits of INR 9,65,61,430 (INR 7,11,71,730 for gratuity plus INR 2,53,89,700 for leave encashment) in accordance with the actuarial report obtained by the school.

Against the total liability the school has invested INR 5,14,70,379 (INR 2,54,09,709 for gratuity and INR 2,60,60,670 for leave encashment) with LIC and submitted the investment proof. The investment with LIC qualifies as plan assets within the meaning of AS-15 therefore, amount invested by the school has been considered while deriving the fund position of the school with the direction to the school to record its retirement benefit obligation as per actuarial valuation report and deposit the remaining amount in plan assets within 30 days from the date of issue of this order.

B. Other Suggestion for Improvements

1. Further, the department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon’ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon’ble High Court of Delhi and to prevent the profiteering and commercialization, directed to the management of all the petitioners private unaided recognized schools through its order No. F. No.DE.15(114)/PSB/2021/2165-2174 dated 01.07.2021:
 - i. “to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR,1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of unutilized facilities by the students during the relevant period of academic year 2020-21”. And if the school has collected the fee in excess to the direction issued by the Hon’ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.
 - ii. The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.
 - iii. The above arrangement will also be applicable with respect to collection of fees for academic session 2021-22.

During the personal hearing, the school explained that it has collected 100% of tuition fees, annual fees and development fees from the students. Thus, the school has not complied with the direction issued vide order No. F. No.DE.15(114)/PSB/2021/2165-2174 dated 01.07.2021.



Accordingly, the school is directed to adjust/refund the same against future dues from the students and submit the compliance report within 30 days from the date of issue of this order.

2. Section 13 (1) of the Right to Education Act, 2009 states that *"no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure"*.

Section 13 (2) of the Right to Education Act, 2009 states that *"Any school or person, if in contravention of the provisions of sub-section (1):*

- a. *receives capitation fee, shall be punishable with fine which may be extended to ten times the capitation fee charged.*
- b. *subjects a child to screening procedures shall be punishable with a fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.*

And section 2(b) of the Right to Education Act, 2009 states *"capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school.*

Further, the Supreme Court in its Judgement dated 02.05.2016 in the matter of Modern 'Dental College and Research Centre Vs. State of Madhya Pradesh [Medical Council of India]' held that education is a noble profession and emphasized that:

"Every demand of capitation fee by educational institutions is unethical & illegal. It emphasized that commercialization and exploitation are not permissible in the education sector and institutions must run on a 'no-profit-no-loss' basis".

The Hon'ble Supreme Court categorically held that *"though education is now treated as an 'occupation' and, thus, has become a fundamental right guaranteed under Article 19(1) (g) of the Constitution, at the same time shackles are put in so far as this particular occupation is concerned, which is termed as noble. Therefore, profiteering and commercialization are not permitted, and no capitation fee can be charged. The admission of students has to be on merit and not at the whims and fancies of the educational institutions,"*

Further, the Hon'ble High Court in LPA 196/2004 in the matter of 'Rakesh Goyal Vs. Montfort School and Section 13(1) of RTE Act, 2009' states *"no school or person shall, while admitting a child, collect any Capitation fee/Donation from the parents. Any school or person who contravenes this provision and receives a capitation fee, shall be punishable with a fine which may extend to ten times the capitation fee charged"*.

Further, The Directorate of Education, vide Order No. DE15/ Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and Order No.F.DE, /15(56)/Act/2009/778 dated 11.02.2009, indicated the following types of fee that a recognised private unaided school can collect from the students/parents:

- a. Registration Fee
- b. Admission Fee:

- c. Caution Money
- d. Tuition Fee
- e. Annual Charges
- f. Earmarked Levies
- g. Development Fee

Based on the provisions mentioned above, charging of ' *Pupil fund, Information dissemination charges and Activity/ Smart Class/ IR charges,*' from the students is in the nature of capitation fee only. Additionally, if the school is charging unwarranted fee under different heads or introduce new head of fee other than the prescribed heads of fee and accumulates surplus fund out of it, it is also prima-facie considered to be a collection of capitation fee in other manner and form.

Accordingly, the collection of Pupil fund, Information dissemination charges and Activity/ Smart Class/ IR charges indicates that the school is engaged in profiteering and commercialization of education.

As per Section 27 of the DSEA, 1973, the manager of the school is responsible to look after the operation of the school smoothly and to ensure compliance with the provision of the DSEAR, 1973 including the compliance of the High Court/Supreme Court and orders/circulars issued by the Directorate of Education from time to time in this regard. As the manager and principal have been bestowed with the power to ensure the school's proper functioning, including ensuring the admission process transparently are jointly as well as in their personal capacity be responsible for levy and collection of capitation fee and any another unauthorized fee collected by the school.

Therefore, the school is directed to not charge capitation as mentioned above with immediate effect and submit the compliance within 30 days from the date of issue of this order. Non-compliance with this direction would be reviewed seriously and a necessary action against the school will be initiated U/s 24(4) of the DSEA, 1973 by the department.

3. From a review of documents submitted by the school post personal hearing, the following has been noted with respect to the Fixed Asset Register (FAR) maintained by the school:

- No tagging of the assets has been done in Fixed Assets Register (FAR) and location is not identified due to which assets could not be physically verified.
- Depreciation for the individual assets is not recorded in the FAR, only cost of the assets is available in the FAR and WDV of the assets is not available.
- Invoice number, manufacturer's serial number and location of the asset is not mentioned in the fixed assets register.

Therefore, the School is hereby directed to prepare a FAR, which should include details such as asset description, purchase date, supplier name, invoice number, manufacturer's serial number, location, purchase cost, other costs incurred, depreciation, asset identification number, etc. to facilitate identification of asset and documenting complete details of assets at one place. The school is further directed to comply with the directions for preparing FAR with relevant details mentioned above according to the process for periodic physical verification of assets and documenting the results of physical verification of assets. The same shall be verified at the time of evaluation of the

fee hike proposal for subsequent years. This being a procedural finding, no financial impact is warranted on the fund position of the school.

4. *Section 18(5) of the DSEA, 1973 states "the managing committee of every recognized private school shall file every year with the Director such duly audited financial and other returns as may be prescribed, and every such returns shall be audited by such authority as may be prescribed".*

Further, Rule 180 (1) of DSER, 1973 states "every recognized private school shall submit returns and documents in accordance with Appendix-II".

Point No. (2) of the Appendix-II requires final accounts i.e., receipts and payments account, income and expenditure account and balance sheet of the preceding year should be duly audited by the Chartered Accountant.

Accordingly, DoE specified vide Order No. F.DE-15/ACT-I/WPC-4109/Part/13/7905-7913 dated 16.04.2016, the format of returns and other documents required to be submitted by the private unaided recognized schools. The aforesaid order also specified format for the financial statements to be such as specified by the Institute of Chartered Accountants of India (ICAI), established under Chartered Accountants Act, 1949 (38 of 1949) in Guidance Note-21 'Accounting by Schools (2005)' as amended from time to time.

Based on the aforesaid provisions, every private unaided recognized school is required to get its accounts audited by a Chartered Accountant before submitting a return under Rule 180(1) of DSER, 1973. The documents submitted by the school for evaluation of the fee hike proposal were taken on record. Review of the audited financial statements including the Independent Auditors Report of FY 2021-22 revealed that, In the audit report the auditor has not given reference to "Receipt & Payment Account." Although, the same has been attested by the auditors, raising a doubt as to whether receipt & payment audit has been carried out or not.

In light of the foregoing, the school is hereby directed to strengthen its process for preparation and presentation of financial statements in accordance with the above-mentioned provisions. However, the audited financial statements submitted by the school have been considered for the evaluation of the fee hike proposal of the school.

5. Para 99 of Guidance Note-21 'Accounting by school' issued by the Institute of Chartered Accountants of India (ICAI), relating to restricted fund, "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year".

Taking the cognisance from the above para, the school needs to create the 'Development Fund Utilisation Account' as deferred income to the extent of cost of assets purchased out of development fund and then this deferred income should be amortised in the proportion of the depreciation charged to revenue account. By following the aforesaid accounting treatment for development fund, development fund utilisation account and depreciation on assets purchased out of development fund as per para 99 of GN-21, the depreciation reserve fund would be mere an

accounting head and school do not require creation of equivalent investments against the depreciation reserve.

However, the audited financial statements of the school revealed that the school has not been following para 99 of the GN 21. Because upon incurrence of the capital expenditure out of the development fund, the school has created development fund utilisation account but has not transferred any amount from deferred income to the credit of income and expenditure account.

Thus, the school is hereby directed to follow accounting treatment specified in para 99 of the Guidance Note 21 with respect to the collection and utilization of development fund and make necessary adjustment in the general reserve account

6. The school is not complying with the DoE Order No.F.DE.15/Act-I/08155/2013/5506-5518 dated 04.06.2012 as well as the conditions specified in the land allotment letter which require that the school should provide 25% reservation for children belonging to EWS/DG category. Therefore, the school is directed to ensure admission in accordance with the aforesaid order. Further, the school is also required to provide uniform and textbooks to the EWS/DG category students. However, from the audited financial statements, the expenditure incurred by the school towards uniform and textbooks cannot be determined. During personal hearing the school has explained that due to paucity of funds school has not given books and uniforms to the EWS students.

Therefore, the concerned Deputy Director Districted are requested to ensure compliance with this regard by the school. From the information provided by the school, the percentage of admission allowed to the school to EWS is provided below.

Particulars	FY 2022-23
Total Students	2,885
EWS Students	553
% of EWS students	19.17%

7. Clause 24 of DoE Order dated 11.02.2009 states *“Every recognized unaided school covered by the Act, shall maintain accounts on the principles applicable to a non-business organization/ not-for-profit organization as per Generally Accepted Accounting Principles (GAAP). Such schools shall prepare their financial statement consisting of a Balance Sheet, P&L Account and Receipt & Payment account every year.”*

Further, Appendix-III (Part-I-General instructions and accounting principles) of Guidance Note-21 states:

1. *“the financial statement of the Schools should be prepared on accrual basis.*
2. *a statement of all significant accounting policies adopted in the preparation and presentation of the balance sheet and income and expenditure account should be included in the School’s Balance sheet.....*
3. *accounting policies should be applied consistently from one financial year to the next. Any change in the accounting policies which has a material effect in the current period, or which is reasonably expected to have a material effect in later periods should be disclosed....”.*

Review of the audited financial statements of the school revealed that the school has been recording income on cash basis while expenses are being recorded on accrual basis. Thus, the school is not following Generally Accepted Accounting Principles (GAAP). Therefore, the school is hereby directed, to maintain its books of account in accordance with GAAP from subsequent financial years and made necessary adjustment in its books of accounts accordingly. The compliance with this direction shall be verified while evaluating the fee increase proposal of the subsequent year

After detailed examination of all the material on record and considering the clarification submitted by the School, it was finally evaluated/ concluded that:

- i. The total funds available for the FY 2022-23 amounting to **INR 19,71,91,702** out of which cash outflow for the FY 2022-23 is estimated to be **INR 21,65,17,264**. This results in deficit of **INR 1,93,25,561** after meeting all expenditures. The details are as follows:

Particulars	Amount (INR)
Cash and Bank balances as on 31.03.2022 as per Audited Financial Statement	19,62,241
Investments as on 31.03.2022 as per Audited Financial Statement (Refer Note 1 below)	7,96,86,162
Liquid fund as on 31.03.2022	8,16,48,403
Add: Recovery from Society for construction of school building (Refer Financial Suggestion No. 1)	42,33,385
Add: Recovery from Society for purchase of car (Refer Financial Suggestion No. 2)	18,51,979
Add: Recovery from society towards excess administrative charge (Refer Financial Suggestion No. 3)	54,82,409
Add: Excess fees collected and utilized but not recorded as income (Refer Financial Suggestion No. 4)	1,52,52,033
Add: Fees for FY 2021-22 as per Audited Financial Statements (Refer Note No. 2 Below)	12,50,93,184
Add: Other income for FY 2021-22 as per audited Financial Statements (Refer Note No. 2 Below)	90,02,396
Add: Impact of order No. 15/ (668)/PSB/2022/4170-4174 dated 03.06.2022 issued for FY 2019-20 in which the school was allowed to increase only tuition fee by 6.5% (Refer Note No. 3 Below)	60,98,293
Total available funds for FY 2022-23	24,86,62,082
Less: Development Fund as per Audited Financial Statements of FY 31.03.2022 (Refer Financial Suggestion No. 5)	-
Less: Investment made with LIC against provision made for retirement benefits (Refer Financial Suggestion No. 6)	5,14,70,379
Less Depreciation reserve fund as on 31.03.2022 (Refer Note No. 4 Below)	-
Estimated Available Funds for FY 2022-23	19,71,91,702
Less: Budgeted Expenditure as provided by the school (Refer Note No. 5 and 6 Below)	19,48,86,688
Less: Arrears of 7th CPC & DA (Refer Note No. 7 Below)	2,16,30,576
Estimated Deficit	1,93,25,561

Note 1: The detail of fixed deposit held by the school as per the audited financial statements of FY is provided below:

S. No	Particulars	Amount (INR)	Remarks
1	LIC Investment	5,14,70,379	Considered separately.
2	Investment with DAV CMC	2,82,15,783	Part of the funds position as it is available with the school for utilization
	Total	7,96,86,162	

Note 2: The Department vide its order No.F.No.PS/DE/2020/55 dated 18.04.2020 and order No.F.No.PS/DE/2020/3224-3231 dated 28.08.2020 issued guidelines regarding the chargeability of fees during the pandemic COVID 2019. The department in both the above-mentioned orders directed to the management of all the private schools not to collect any fee except the tuition fee irrespective of the fact whether running on the private land or government land allotted by DDA/other government land owing agencies and not to increase any fee in academic session 2020-21 till further direction.

Further, the department in pursuance of the order dated 31.05.2021 in WPC 7526/2020 of Single Bench of the Hon'ble High Court of Delhi and interim order dated 07.06.2021 in LPA 184/2021 of the Division Bench of Hon'ble High Court of Delhi and to prevent the profiteering and commercialisation, directed to the management of all the petitioners private unaided recognised schools through its order No. F. No.DE.15(114)/PSB/2021/2165-2174 dated 01.07.2021:

- (i) "to collect annual school fee (only all permitted heads of fees) from their students as fixed under the DSEAR, 1973 for the academic year 2020-21, but by providing deduction of 15% on that amount in lieu of **unutilized facilities** by the students during the relevant period of academic year 2020-21". And if the school has collected the fee in excess to the direction issued by the Hon'ble Court, the same shall be refunded to the parents or adjusted in the subsequent month of fee or refund to the parents.
- (ii) The amount so payable by the concerned students be paid in six equal monthly instalments w.e.f. 10.06.2021.
- (iii) The above arrangement will also be applicable with respect to collection of fees for academic session 2021-22.

During the personal hearing, the school explained that it has collected 100% of tuition fees, annual fees and development fees from the students. Thus, the school has not complied with the direction issued vide order No. F. No.DE.15(114)/PSB/2021/2165-2174 dated 01.07.2021. Accordingly, the school is directed to adjust/refund the same against future dues from the students.

Note 3: Calculation of impact of fee hike order of FY 2019-20:

Particulars	Amount (INR)
Total Fees for FY 2021-22 (Excluding Other Income)	12,50,93,184
Fees Hike Rate applicable from 01st July, 2022	6.50%
Amount of Fees Hike for 9 months (01.07.2022 to 31.03.2023)	60,98,293

Note 4: As per the Duggal Committee report, there are four categories of fees that can be charged by a private unaided School. The first category of fee comprised of "Registration fee and all one Time Charges" levied at the time of admissions such as admission and caution money. The second

category of fee comprises 'Tuition Fee' which is to be fixed to cover the standard cost of the establishment and to cover the expenditure of revenue nature for the improvement of curricular facilities like library, laboratories, science, and computer fee up to class X and examination fee. The third category of the fee should consist of 'Annual Charges' to cover all expenditure not included in the second category and the fourth category consist of all 'Earmarked Levies' for the services rendered by the school and be recovered only from the 'User' students. These charges are transport fee, swimming pool charges, Horse riding, tennis, midday meals etc. This recommendation has been considered by the Directorate while issuing order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and order No. F.DE./15(56)/Act/2009/778 dated 11.02.2009.

The purpose of each head of the fee has been defined and it is nowhere defined the usage of development fee or any other head of fee for investments against depreciation reserve fund.

Further, Clause 7 of order No. DE.15/Act/Duggal.com/203/99/23033-23980 dated 15.12.1999 and clause 14 of the order no F.DE./15(56)/Act/2009/778 dated 11.02.2009, "*development fee, not exceeding 15% of the total annual tuition fee may be charged for supplementing the resources for purchase, upgradation and replacement of furniture, fixture and equipment. Development fee, if required to be charged, shall be treated as capital receipt and shall be collected only if the school is maintaining a Depreciation Reserve Fund, equivalent to the depreciation charged in the revenue accounts and the collection under this head along with and income generated from the investment made out of this fund will be kept in a separately maintained Development Fund Account*". Thus, the above direction provides for:

- Not to charge development fee for more than 15% of tuition fee.
- Development fee will be used for purchase, upgradation and replacement of furniture, fixtures, and equipment.
- Development fee will be treated as capital receipts.
- Depreciation reserve fund is to be maintained.

Thus, the creation of the depreciation reserve fund is a pre-condition for charging of development fee, as per above provisions and the decision of Hon'ble Supreme court in the case of Modern School Vs Union of India & Ors.: 2004(5) SCC 583. Even the Clause 7 of the above direction does not require to maintain any investments against depreciation reserve fund. Also, as per para 99 of Guidance Note-21 'Accounting by School' issued by the Institute of Chartered Accountants of India states "Where the fund is meant for meeting capital expenditure, upon incurrence of the expenditure, the relevant asset account is debited which is depreciated as per the recommendations contained in this Guidance Note. Thereafter, the concerned restricted fund account is treated as deferred income, to the extent of the cost of the asset, and is transferred to the credit of the income and expenditure account in proportion to the depreciation charged every year."

Accordingly, the depreciation reserve (that is to be created equivalent to the depreciation charged in the revenue account) is mere of an accounting head for the appropriate accounting treatment of depreciation in the books of account of the school in accordance with Guidance Note -21 issued by the Institute of Chartered Accountants of India. Thus, there is no financial impact of depreciation reserve on the fund position of the School. Accordingly, the depreciation reserve fund has not been considered while deriving the fund position of the School.

Note 5: All budgeted expenditure of the school has been considered while deriving the fund position of the school except the following:

Particulars	Expense as per Budgeted of FY 2022-23	Disallowed	Remarks
Other establishment cost	48,38,726	48,38,726	Refer Financial suggestion No. 3
DA	3,38,56,589	60,02,254	Amount proposed by the school is quite high in comparison to expenditure incurred by the school during FY 2019-20, 2020-21 and 2021-22. Therefore, amount of INR 2,90,16,336 has not been considered while deriving the fund position of the school.
HRA	2,55,70,809	8,49,895	
Transport Allowance	86,52,890	62,54,117	
Employee Welfare	3,18,20,142	1,59,10,071	
Salary Arrears	5,99,94,270	5,99,94,270	Considered separately
Loan Repayment	51,00,000	51,00,000	Not allowed as per clause 8 of Order No. DE 15/ Act/ Duggal.Com /203 /99 /23033-23980 dated 15.12.1999

Note 6: While evaluating the fee hike proposal, department considers that how much liquid funds would require the school for a particular session for smooth operation without compromising with the quality of education. Thus, while deriving the fund position of the school all legitimate expenditures revenue as well as capital in accordance with the provisions DESAR, 1973 and pronouncement of Courts judgment have been considered. Therefore, balance of the other current assets other and current liabilities has not been considered. Because it is clear that the current assets, loans and advances and current liabilities are cyclic in nature and the same have already been considered in the form of budgeted income and expenditure of the school in the earlier years. Thus, current assets, loans and advances and current liabilities will always reflect in the financial statements at the end of the financial year.

Note 7: DA arrears of INR 2,16,30,576 for FY 2020-21 and 2021-22 as submitted by the school has been considered while deriving the fund position.

- ii. In view of the above examination, it is evident that the school does not has adequate funds for meeting all the operational expenditures for the FY 2022-23. In this regard, the directions issued by the Directorate of Education vide circular no. 1978 dated 16.04.2010 states that,

"All Schools must, first of all, explore and exhaust the possibility of utilising the existing funds/ reserves to meet any shortfall in payment of salary and allowances, as a consequence of increase in the salary and allowance of the employees. A part of the reserve fund which has not been utilised for years together may also be used to meet the shortfall before proposing a fee increase."

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial suggestions that were identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given

AND WHEREAS, in the light of above evaluation which is based on the provisions of DSEA, 1973, DSER, 1973, guidelines, orders and circulars issued from time to time by this Directorate, it was recommended by the team of Chartered Accountants along with certain financial suggestions that were identified (appropriate financial impact has been taken on the fund position of the school) and certain procedural suggestions which were also noted (appropriate instructions against which have been given in this order), that the sufficient funds are not available with the School to carry out its operations for the academic session 2022-23. Accordingly, the fee increase proposal of the school may be accepted.

AND WHEREAS, it is noticed that the school has incurred INR 1,15,67,773 in contravention to the provisions of DSEAR, 1973 and other orders issued by the departments from time to time. Therefore, the school is directed to recover the aforesaid amount from society/ management. The receipts along with copy of bank statements showing receipt of the above-mentioned amount should be submitted with DoE, in compliance of the same, within 30 days from the date of issue of this order. Non-compliance with this direction shall be viewed seriously as per the provision of DSEAR, 1973 without providing any further opportunity of being heard.

AND WHEREAS, considering the financial situation and existing deficiencies and keeping in view that salary and other employee's benefits can be paid to the teachers and staff smoothly, the fee hike is allowed to the school with the suggestions for improvement. The school is hereby further directed that the additional income received on account of increase fee should be utilized at first instance only for payment of salary and salary arrears and submit the compliance report within 30 days from the date of issue of this order

AND WHEREAS, it is relevant to mention charging of any arrears on account of fee for several months from the parents is not advisable, not only because of the additional sudden burden fall upon the parents/students but also as per the past experience, the benefit of such collected arrears is not passed to the teachers and staff in most of the cases as was observed by the Justice Anil Dev Singh Committee (JADSC) during the implementation of the 6th CPC. Keeping this in view, and exercising the powers conferred under Rule 43 of DSER, 1973, the Director (Education) has accepted the proposal submitted by the school and allowed an increase in fee by 15% to be effective from 01 October 2022.

AND WHEREAS, recommendation of the team of Chartered Accountants along with relevant materials were put before the Director of Education for consideration and who after considering all the material on the record, and after considering the provisions of section 17 (3), 18(5), 24(1) of the DSEA, 1973 read with Rules 172, 173, 175 and 177 of the DSER, 1973 has found that funds are not available with the school for meeting financial implication for the academic session 2022-23. Hence, for smooth payment of salaries and other employee's benefit, the fee hike is required to the School.

AND WHEREAS, the school is directed, henceforth to take necessary corrective steps on the financial and other suggestion noted during the above evaluation process and submit the compliance report within 30 days from the date of issue of this order to the D.D.E (PSB)

Accordingly, it is hereby conveyed that the proposal for fee hike of **S.L.S DAV Public School (School ID - 1003206), Mausam Vihar, Delhi - 110051** filled by the school in response to the Order No. F.DE.-15(40)/PSB/2019/4440-4412 dated 08.06.2022 for the academic session 2022-23, is accepted by the Director (Education) with the above conclusion and suggestions and the school is hereby allowed to increase the fee by 15% to be effective from 1 October, 2022.

Further, the management of said School is hereby directed under section 24(3) of DSEAR 1973 to comply with the following directions:

1. To increase the fee only by the prescribed percentage from the specified date.
2. To ensure payment of salary is made in accordance with the provision of Section 10(1) of the DSEA, 1973. Further, the scarcity of funds cannot be the reason for non-payment of salary and other benefits admissible to the teachers/ staffs in accordance with section 10 (1) of the DSEA, 1973. Therefore, the Society running the school must ensure payment to teachers/ staffs accordingly.
3. To utilize the fee collected from students in accordance with the provisions of Rule 177 of the DSER, 1973 and orders and directions issued by this Directorate from time to time.

Non-compliance of this order or any direction herein shall be viewed seriously and will be dealt with in accordance with the provisions of section 24(4) of Delhi School Education Act, 1973 and Delhi School Education Rules, 1973.

This is issued with the prior approval of the Competent Authority.

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi

To
The Manager/ HoS
S.L.S DAV Public School
(School ID - 1003206),
Mausam Vihar,
Delhi - 110051

No. F.DE.15 (111)/PSB/2022 /427-432

Dated: 16/01/23

Copy to:

1. P.S. to Principal Secretary (Education), Directorate of Education, GNCT of Delhi.
2. P.S. to Director (Education), Directorate of Education, GNCT of Delhi.
3. DDE (East) ensure the compliance of the above order by the school management.
4. DE's nominee concerned
5. In-charge (I.T Cell) with the request to upload on the website of this Directorate.
6. Guard file.

Nandini

(Nandini Maharaj)
Additional Director of Education
(Private School Branch)
Directorate of Education, GNCT of Delhi